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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,691	10/28/2003	Tsutomu Noguchi	FUJZ 20,700	3923
26304 7590 12/09/2009 KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022-2585				
EXAMINER				
ALIA, CURTIS A				
ART UNIT		PAPER NUMBER		
2474				
MAIL DATE		DELIVERY MODE		
12/09/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/694,691

Applicant(s)

NOGUCHI, TSUTOMU

Examiner

Curtis A. Alia

Art Unit

2474

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed 12 November 2009 has been entered. Claims 1 and 4 are cancelled and claims 6 and 9 are amended. Claims 6 and 9 are pending in this application, with claim 6 being independent. Please note that AU 2416 has been changed to AU 2474.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to Arguments

2. Applicant's arguments with respect to claims 6 and 9 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable by Dolinar et al. (newly cited US 6,870,817) in view of Anderson et al. (previously cited US 6,262,979).

Regarding claim 6, Dolinar discloses a frame transfer apparatus comprising:
a network processor determining whether or not a received frame is to be monitored based on a destination address in header information of the received frame (see column 7, lines 50+, determining whether the communication is to be monitored includes analyzing the source and destination addresses of the communication, which is well known to come from the header

as shown in figure 1), and generating, from the received frame, a single dual-purpose normally-transferred and monitored frame including the destination address and in-device information transferred to a CPU for monitoring when the received frame is found to be monitored (see column 7, lines 50+, before duplication of the packet, the packet still has its header in tact, which includes destination address and in-device information (remains interpreted as being hardware address such as a MAC address well known in the packet/frame transmission art),

a local switch receiving the dual-purpose frame from the network processor and duplicating the dual-purpose frame thereby to generate two frames (see column 7, lines 55+, the packet to be monitored is duplicated, generating two packets),

the network processor receiving the two frames from the local switch and editing one of the two frames to generate a monitored frame having unique in-device information without the destination address (see column 7, lines 59+, one of the duplicate packets is modified to include monitoring header information, also see column 5, lines 5-11, header (including destination information) is stripped from the monitored packet to render the monitoring anonymous, and CMS header is added so that proper destination and device information pointing to the monitoring station is present in the packet) and editing the other of the two frames for a normally-transferred frame including the destination address without the in-device information (see column 7, lines 62+, packet without the CMS header still has its original destination information, which is different from the device information that is now in the packet to be monitored), and

a switch portion establishing a path corresponding to each of the edited frames received from the network processor (see column 7, lines 62-65, each of the two packets is forwarded to its respective destination, thus establishing the path for the forwarding).

Dolinar discloses duplicating the frame to be monitored but does not explicitly teach that the monitored frame and the normally-transferred frame are generated by multicasting.

However, the above-mentioned claimed limitation is well known in the art, as evidenced by Anderson. In particular, Anderson teaches that the monitored frame and the normally-transferred frame are generated by multicasting (see column 2, lines 31-45, multicast packets can be generated for transmitting a packet to multiple destinations).

In view of the above, having the apparatus of Dolinar, then given the well-established teaching of Anderson, it would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the apparatus of Dolinar as taught by Anderson, since Anderson stated that timely detection of collisions of packets is improved.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dolinar in view of Anderson as applied to claim 6 above, and further in view of Foti (previously cited US 6,839,323) and Maher et al. (previously cited US 2003/0179758).

Regarding claim 9, Dolinar and Anderson do not explicitly teach that the header information of the dual-purpose frame includes a monitored ID as well as information necessary for restoring a normally-transferred ID and information used for monitoring, upon generating the normally-transferred frame and the monitored frame respectively restores the header information

of the frame having the original flag to the normally-transferred ID and rewrites the header information of the frame having the monitored flag is rewritten into a CPU-transferred ID.

However, the above-mentioned claimed limitation is well known in the art, as evidenced by Foti. In particular, Foti teaches that the header information of the dual-purpose frame includes a monitored ID as well as information necessary for restoring a normally-transferred ID and information used for monitoring (see column 5, lines 15-26, a header is added to a packet including information necessary for transmission, including a Call ID as well as the ability to restore the original packet), the network processor, upon generating the normally-transferred frame and the monitored frame respectively restores the header information of the frame to the normally-transferred ID and rewrites the header information of the frame is rewritten into a CPU-transferred ID (see column 5, lines 20-24, decapsulating the packet from the new header restores the original packet information).

In view of the above, having the apparatus of Dolinar and Anderson, then given the well-established teaching of Foti, it would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the apparatus of Dolinar and Anderson as taught by Foti, since Foti stated that monitoring can be applied to IP networks, including mobile networks.

Dolinar, Anderson and Foti do not explicitly teach the local switch, upon the multicasting, the two frames having the monitored ID of the dual-purpose frame respectively rewritten into an original flag and a monitored flag.

However, the above-mentioned claimed limitation is well known in the art, as evidenced by Maher. In particular, Maher teaches that the local switch, upon the multicasting, the two frames having the monitored ID of the dual-purpose frame respectively rewritten into an original

flag and a monitored flag (see paragraph 37, when performing the wiretapping functionality, the QoS processor is able to modify the packet by adding or modifying any fields in the header to achieve the QoS required, including setting any flags to classify the packet as either an original packet or a monitored packet).

In view of the above, having the method of Dolinar, Anderson and Foti, then given the well-established teaching of Maher, it would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the method of Dolinar, Anderson and Foti as taught by Maher, since Maher stated that detailed records of the communications can be maintained.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis A. Alia whose telephone number is (571) 270-3116. The examiner can normally be reached on Monday through Friday, 9am-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Aung S. Moe can be reached on (571) 272-7314. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aung S. Moe/
Supervisory Patent Examiner, Art Unit 2474

/Curtis A Alia/
Examiner, Art Unit 2474
12/4/2009

CAA